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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/377,045	08/19/1999	PAUL S. SUDOLCAN	L-0170.33	7291

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EXAMINER

FAULK, DEVONA E

ART UNIT	PAPER NUMBER
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2644

DATE MAILED: 01/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/377,045	Applicant(s) SUDOLCAN, PAUL S.	
	Examiner Devona E. Faulk	Art Unit 2644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-8 and 10 is/are pending in the application.
- 4a) Of the above claim(s) 3 and 9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-8 and 10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments, filed 6/17/2004, with respect to the rejection(s) of claim(s) 1 and 2 under 103 (a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Foster.

2. The applicant has cancelled claims 3 and 9. Claims 3 and 9 were objected to as being dependent upon a rejected claim and found to be allowable if rewritten in independent form. The applicant amended claims 1 and 8 using the claim language recited previously in claims 3 and 9. However, the examiner has found art that meets the claim language of both claims.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-8, 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 recites "an audio dispensing valve for a beverage dispenser". The examiner asserts that this is misdescriptive because the valve is not outputting audio the sonic generator within the valve is outputting audio.

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 2 and 10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 2 recites wherein the sensor deactivates the sonic generator assembly responsive to the switch deactivating the valve. Claim 10 recites wherein the audio control unit ceases generating an acoustic signal responsive to a deactivation signal received from the sensor. It is not clear as to how a deactivation signal is generated and received by the sensor (See page 7, line 21-page 10).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claim 1** is rejected under 35 U.S.C. 103(a) as being unpatentable over McCann et al. (U.S. Patent 3,647,115) in view of Whigman et al. (U.S. Patent 5,129,434) in further view of Foster (U.S. Patent 6,125,482).

Regarding **claim 1**, McCann discloses an audio dispensing valve for a beverage dispenser, comprising a valve for regulating beverage fluid flow through the audio dispensing valve (37); and an audio unit comprising a sonic generator assembly for providing audible

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information (See abstract; 13, Figure 1; column 1, line 72-column 2, line 29). McCann fails to disclose the concept of a switch in operative engagement with the valve for selectively activating the valve. However this concept was well known in the art at the time of filing as taught by Whigman. Whigman discloses a beverage-dispensing valve comprising a valve (50), comprising a switch (70) that is actuated when a drink is to be dispensed at the moment a cup is pushed against the arm (68, Figure 4, column 3). McCann and Whigman both fail to disclose the concept of a sensor linked with the sonic generator assembly and with the switch, wherein the sensor activates the sonic generator assembly responsive to the switch activating the valve. However, this concept was well known in the art at the time of filing as taught by Foster. Foster discloses the concept of a sensor (109) as claimed (column 8, lines 21-27). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to use Whigman's concept of a switch that is actuated when a drink is dispensed and Foster's concept of a sensor activating a sonic generator assembly in order to beverage dispenser that provides an audio output indicating when the dispenser is in use.

9. **Claim 8** is rejected under 35 U.S.C. 103(a) as being unpatentable over Whigham et al. (U.S. Patent 5,129,434) in view of McCann et al. (U.S. Patent 3,647,115) in further view of Sacchetti (U.S. Patent 5,908,142) in further view of McLennon et al. (U.S. Patent 4,343,043)

Regarding claim 8, Whigman discloses a beverage-dispensing valve comprising a valve (50), comprising a switch (70) that is actuated when a drink is to be dispensed at the moment a cup is pushed against the arm (68). Although he teaches on the above named elements, Whigman fails to disclose an audio unit linked with the switch. However the concept of an audio unit linked with a switch was well known in the art at the time of filing as taught by McCann.

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However the concept of an audio unit linked with a switch was well known in the art at the time of filing as taught by McCann. McCann discloses a liquid-dispensing device with audible alarm. A vibrator, which reads on "audio unit", is provided for providing audible signals each time liquid is dispensed (See abstract.). The vibrator is actuated when the operator applies force to button (14), which would read on "switch" (column 2, lines 37-55). Modifying Whigham's valve to include an alarm device or some type of sound transmitting device as in McCann's dispenser would then read on "linking the audio unit with a switch", "activating the audio unit with a switch" and "generating an acoustic signal with the audio unit", "projecting the acoustic signal from the audio dispensing valve via the audio unit" as claimed. Although McCann teaches on the above element he fails to teach of storing an audio message as claimed. However the concept of a dispensing apparatus storing audio information was well known in the art at the time of filing as taught by Sacchetti. Sacchetti discloses a beverage dispenser system comprising a central processing unit (128) that is capable of storing audio information (column 6, lines 27-36) (figure 6). Modifying Whigham's valve to include Sacchetti's central processing unit would then read on "storing an audio message". Switch activated sound transmitting devices are well known in the art. The method is obvious in the functionality of the apparatus. Whigman McCann and Sacchetti fail to disclose linking a volume adjustment with the audio unit for adjusting output volume of the acoustic signal projected from the audio unit. Adjusting the volume of audio units are well known in the art. McLennan discloses a volume control potentiometer coupled to a radio circuit (See Abstract). Thus it would have been obvious to one of ordinary skill in the art at the time of the invention use McCann's concept of linking the audio unit with a switch, activating the audio unit with the switch, Sacchetti's concept of a central processing unit and McLennan's concept of

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controlling volume for the benefit of giving an audible indication that the dispenser is functioning properly, to provide the dispenser with an additional feature to make it a more appealing device, and to provide volume control to the user.


***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Devona E. Faulk whose telephone number is 703-305-4359. The examiner can normally be reached on 8 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huyen Le can be reached on 703-305-4844. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DEF

  
HUYEN LE  
PRIMARY EXAMINER